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FEE TRANSMITTAL for FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant Claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 330

Complete if Known

Application Number 09/538,816
Filing Date 3/30/00
First Named Inventor Armstrong, et al.
Examiner Name DeMicco, Matthew R.
Group / Art Unit 2611
Attorney Docket No. 533/054

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JUN 29 2004

Technology Center 2600

METHOD OF PAYMENT (check all that apply)

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FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 0)

2. EXTRA CLAIM FEES

Total Claims 20 ** = 0 X 18 = 0
Independent Claims 3 ** = 0 X 86 = 0
Multiple Dependent X = 0

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 330)

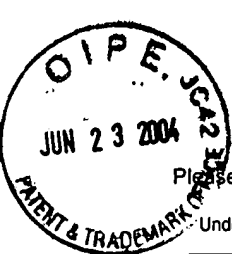
SUBMITTED BY

Complete (if applicable)

Name (Print/Type) EAMON J. WALL, ESQ. Registration No. Attorney/Agent 39,414 Telephone (732) 530-9404
Signature [Signature] Date June 2/ , 2004

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PTO/SB/21 (08-03)

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/538,816	RECEIVED JUN 29 2004 Technology Center 2600
	Filing Date	3/30/00	
	First Named Inventor	Armstrong, et al.	
	Group Art Unit	2611	
	Examiner Name	DeMicco, Matthew R.	
Total Number of Pages in This Submission		Attorney Docket Number	533/054

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (<i>Appeal Notice, Brief, Reply Brief</i>) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (<i>please identify below</i>): 2 copies of Reply Brief postcard receipt
Remarks		Please charge all fees due an owning to Deposit Account No. 20-0782, and please credit any excess fees to such deposit account.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	EAMON J. WALL, ESQ., REG. NO. 39,414
Signature	
Date	June 21, 2004

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop-Appeal Brief-Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Alberta Gamble		
Signature		Date	June 21, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon on the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

#14
W. Lawson
7/1/04
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JUN 29 2004

Technology Center 2600

In re Application of: **Armstrong et al.**

Docket No.: **533/054**

Serial No.: **09/538,816**

: Filed: **March 30, 2000**

Group Art Unit: **2611**

: Examiner: **DeMicco, Matthew R.**

Title: **SYSTEM ENABLING USER ACCESS TO SECONDARY CONTENT
ASSOCIATED WITH A PRIMARY CONTENT STREAM**

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is filed under the provisions of 37 CFR 1.193(b) and M.P.E.P. §1208.02.

REPLY TO EXAMINER'S ANSWER

Applicants/Appellants, in accordance with 37 C.F.R. §1.193 and M.P.E.P. §1208.02 and in response to the Examiner's Answer (paper no. 13) dated April 21, 2004, hereby submit this Reply Brief to the Board of Patent Appeals and Interferences. Although Applicants/Appellants believe that no fee is due in conjunction with this response, the Commissioner is hereby authorized to charge any fees necessary to make this reply timely and acceptable, including extension of time fees under 37 C.F.R. §1.136, to Deposit Account No. 20-0782.

Applicants/Appellants submit the following remarks in response to the Examiner's Answer dated April 21, 2004, in further support of the arguments

presented in the Appellants' principal brief filed on January 16, 2004. Further, Applicants/Appellants believe Examiner's Answer repeatedly mischaracterizes the teachings of the cited references and the desirability of any combination of the same with references having non-compatible teachings. The following points of argument are presented in response to the Examiner's Answer.

(1) On page 2 of the Examiner's Answer, the Examiner notes "[t]he statement of the status of the claims contained in the brief is correct. A typographical error, however, is present on Line 1, which states that, 'claims 1-16 were presented in the application as original filed on March 30, 2000.'" The Appellants thank the Examiner for identifying this typographical error and concur that "Claims 1-16" should correctly read "Claims 1-15."

(2) On pages 4-7 of the Examiner's Answer, the Examiner states that video-on-demand (VOD) is often referred to as "Pay Per View." The Appellants respectfully disagree with such definition. Although a subscriber pays for a particular requested program for viewing, pay-per-view (PPV), as conventionally known in the art, enables a subscriber to order a program (e.g., a movie, sporting event, among other events) that is scheduled for broadcast at a particular time slot. Multiple predetermined time slots may also be used to provide PPV. These time slots are generally spaced at least twenty minutes apart, and within a predetermined time period (e.g., evenings). In other words, a person who wishes to view adult content would have to wait for the next time slot to occur, and such time slot is usually scheduled in the evenings.

By contrast, VOD allows a subscriber to view content (e.g., a movie) without regard to a scheduled time slot or any predetermined time period. In fact, there is no time slot associated with VOD, since the content (e.g., movie) is available for viewing at all times of a day. That is, subscribers of VOD services may watch adult content any time of the day, at will.

Near-video-on-demand (NVOD) may be considered an accelerated

version of pay-per-view. The Inoue reference discloses that the content associated with a particular program (e.g., movie) is broadcasted every five minutes, instead of every 20 or so minutes. Thus, NVOD is a subset of PPV, as opposed to video-on-demand.

It is critical to note that both PPV and NVOD provide content at a time determined by a programmer. In stark contrast, VOD contemplates that a user receives content at a time determined by the user (e.g., immediately). Neither Inoue nor Mankovitz teach or suggest a video-on-demand system, as claimed by the Appellants. Therefore the combination of the references fails to teach or suggest the Appellants invention as a whole.

Further, the Examiner notes that the secondary content taught by Mankovitz is the Internet-based web page itself that the user is operable to navigate. The PRI merely provides the television program with a link into the Internet and the vertical blanking interval (VBI) portion of a television signal carries this information. Regardless as what is being defined as secondary content, the Mankovitz reference fails to teach or suggest the Appellants claimed feature of "halting the providing of said primary VOD stream to said information consumer." Rather, Mankovitz discloses that "[b]y repeatedly pressing a button on the viewer input device, the viewer can toggle back and forth between the TV mode and the Internet mode.

The Appellants disagree that toggling between TV mode and the Internet mode is the same as "halting the providing of said primary VOD stream." Since Mankovitz discloses that the video information is television programs, by definition, such television programs are broadcast, and can not be halted. In fact, since the data is delivered via the VBI, the television signal must be continuously broadcast. Rather, the Appellants invention halts the primary VOD stream from the source (e.g., the head-end of the provider equipment). In other words, Mankovitz continuously broadcasts the television programming, and even though a viewer has toggled (switched) to viewing a web page, the viewer's receiver is still receiving the broadcast television program. Thus, the Appellants

invention is different from Mankovitz, since the Appellants invention claims "halting the providing of said primary VOD stream to said information consumer."

Moreover, the Inoue reference teaches that "during a pause, the video program may be received and displayed, or a pause graphics screen may be generated by the microcomputer and displayed." (see Inoue, col. 6, lines 28-32).

Notwithstanding, initiating a pause as taught by Inoue does not teach, necessitate, or suggest "halting the providing of said primary VOD stream to said information consumer." Rather, Inoue specifically discloses that even though a pause button is pressed by a user, the video program may still be received and displayed. Nothing in the Inoue or Mankovitz references teach or suggest that the primary video stream from the source is halted. Therefore, the appellants submit that the appealed claims fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder.

(3) On pages 7-8 of the Examiner's Answer, the Examiner states that "a web browser, such as the one in area 46, may receive and execute an applet from a web page on the internet." Further, "as shown in Figure 2, a television video screen displays a video frame, while a web browser area (46) displays the secondary content."

In response, claim 8 depends from claim 1 and recites additional features thereof. The Board's attention is directed to the fact that the primary VOD content stream is halted to the information consumer, when the secondary content is provided to the information consumer. By contrast, Mankovitz sends both the video information and web page information simultaneously.

Specifically, as the Examiner points out Mankovitz, FIG. 2 discloses a video portion 42 being displayed simultaneously with the web browser information 46. "In the Internet mode, the video portion of the television program last viewed in the TV mode is displayed in area 42. ... A message is displayed at the top of an area 46 to prompt the viewer to select from a number of website

names displayed in area 46 by moving a cursor 48 with arrow keys on the viewer input device.” (see Mankovitz, page 6, lines 10-17, and FIG. 2). Thus, the Mankovitz reference fails to teach or suggest “halting the providing of the primary VOD content stream to said information consumer; and providing a secondary content to said information consumer.”

Moreover, the software application of Mankovitz does not read on the Appellants’ claimed applet. The Examiner states that “it is inherent that the screen of FIG. 2, which is generated by a computing device, is controlled by a software application.” However, Appellants point out that it is not inherent that the software applications of Mankovitz are applets originating from the provider equipment. That is, nowhere in Mankovitz is there any teaching or suggestion that the software application is “portable between operating systems,” i.e., the secondary content is inherently derived from applets. The Appellants have defined their secondary content as originating from applets. The applets comprise three elements: a video layer, a control layer, and a graphics layer.

Further, Mankovitz is silent with respect to how the graphics layer may be used for selectively emphasizing or deemphasizing portions of the video layer. The Appellant’s invention sends the applet, which includes a video layer graphics layer, and control layer from the provider equipment, where the control layer enables the graphics layer to be used for such emphasizing/deemphasizing of the video layer in response to user interaction.

The combined references do not teach an applet, as defined by the Appellant’s invention. Rather, the Examiner is merely using conjecture with respect to the capabilities of the software disclosed in Mankovitz to form an obviousness rejection. Therefore, the Appellants submit that the appealed claim 8 fully satisfies the requirements under 35 U.S.C §103 and is patentable thereunder.


CONCLUSION

For the reasons advanced above, Appellants state that the rejection of claims 1-15 as being obvious under 35 U.S.C. § 103 is improper. Reversal of the rejection in this appeal is respectfully requested.

If necessary, please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 20-0782, and please credit any excess fees to the above referenced deposit account.

Respectfully submitted,

6/21/04



Eamon J. Wall, ESQ.
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